

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA
SALISBURY DIVISION
Case No: 1:24-CV-00221**

CRAIG CUNNINGHAM,

Plaintiff,

v.

**WALLACE & GRAHAM, P.C.,
MONA LISA WALLACE, BILL
GRAHAM, WHITNEY
WALLACE WILLIAMS, MARK
P. DOBY, RHINE LAW FIRM,
P.C., JOEL R. RHINE,
SOKOLOVE LAW, LLC,**

Defendants.

MOTION TO AMEND ORDER APPOINTING MEDIATOR

Plaintiff respectfully moves this Court for an Order amending the Clerk's Order appointing Rene Stemple Trehy as mediator in this matter (ECF No. 20), and in support thereof states as follows:

As an initial matter, as noted in the Parties' 26(f) report, this case has not been selected for automatic mediation under Local Rule 16.4(b), as this case is one under the Telephone Consumer Protection Act, which is federal case category code 485, and which falls outside the types of cases automatically selected for mediation under the Local Rules. As such, it appears that this Court has not ordered mediation in this matter as an initial matter.

Should the Court nevertheless elect to send this case to mediation under Local Rule 16.4(a), or alternatively, insofar as this matter has been referred to mediation under Local Rule 83.9, the Plaintiff wishes to correct the unilateral appointment of Ms. Stemple Trehy as the mediator in this action. The Plaintiff respectfully observes that the parties have *not consented to Ms. Trehy's appointment as mediator*, and the Defendants unilaterally selected her as mediator as a proposal, which the Plaintiff has rejected. Counsel for Plaintiff asked counsel for Defendants multiple times to share with them the particular qualifications or other attributes that would render Ms. Stemple Trehy a good mediator for the claims or issues in this matter but received no response.

As such, the Plaintiff and Defendants did not select their mediator by agreement, and the parties did not have the 21 days provided by the Local Rules to select the mediator. Local Rule 83.9b(b), 83.9d(a). Accordingly, the Plaintiff respectfully requests that the Court direct the Clerk to amend the Order, clarifying whether it is sending this matter to mediation under Local Rule 83.9, and if so, to remove Rene Stemple Trehy as the appointed mediator and direct the parties to meet and confer on a *mutually acceptable mediator* within 21 days of the entry of its order with qualifications particularly suited to the claims and issues in this case, including subject matter expertise, as contemplated by Local Rule 83.9c(a).

In an effort to resolve this matter without judicial intervention, counsel for Plaintiff corresponded with counsel for the Defendant. Defendant has not indicated that it intends to oppose this motion, but has also refused to assert to the relief requested. And, as noted, Defendant has refused to identify any special qualifications or other considerations to Plaintiff's attention rendering the selection of Ms. Trehy appropriate for this case. As such, counsel for Plaintiff must respectfully represent that this motion is opposed.

Date: January 31, 2025.

Counsel for Plaintiff:

By: /s/ _____
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By special appearance

CERTIFICATE OF WORD COUNT

I HEREBY CERTIFY that this motion complies with the word count limitations set forth pursuant to M.D.N.C. Rule 7.3(d)(1). The word count does not exceed 6,250 words, including the body of the brief, headings, and footnotes.

January 31, 2025

By: s/ Andrew Roman Perrong

Andrew Roman Perrong

CERTIFICATE OF SERVICE

I hereby certify that on January 31, 2025, I filed the foregoing document using the courts CM/ECF system, which will automatically send notification of filing to all counsel of record.

By: /s/ Andrew Roman Perrong
Andrew Roman Perrong